



An  
Bord  
Pleanála

## Inspector's Report ABP-311866-21

### Development

Increase in height of part of the existing low level boundary wall to 1.75 metre high screen walls abutting the public footpath along the south west boundary line, together with additional 1.75 metre high screen walls within the site to provide screening for the proposed additional private open space to the south west corner of the overall site with access from the dwelling via the proposed new French doors in lieu of 1 kitchen window on the southwest elevation together with the relocation of existing pedestrian entrance.

### Location

59 Dangan Park, Kimmage Road  
West, Kimmage, Dublin 6W

### Planning Authority

South Dublin County Council

### Planning Authority Reg. Ref.

SD21B/0448

### Applicant(s)

Janice & Michael McVeigh

### Type of Application

Permission

**Planning Authority Decision**

Grant Permission with Conditions

**Type of Appeal**

First Party

**Appellant(s)**

Janice & Michael McVeigh

**Observer(s)**

None

**Date of Site Inspection**

15<sup>th</sup> December 2021

**Inspector**

Liam Bowe

## 1.0 Site Location and Description

- 1.1. The appeal site is located at the junction of Dangan Park and Shelton Park, in a residential area characterised by single storey detached dwellings in Kimmage, Dublin 6W.
- 1.2. The appeal site is located on the corner of two residential streets. There is a single storey dwelling on the site that fronts onto Shelton Park. There is a pedestrian entrance from Dangan Park on the south west boundary and a vehicular access from Shelton Park on the south eastern boundary. There is a low boundary wall, with hedging to the rear, that runs along the south western boundary and part of the south eastern boundary of the appeal site, terminating at the vehicular entrance to the site. There is also 1.75 metre high wall on part of the south eastern boundary, which serves to provide privacy to the private open space to the rear of the dwelling.

## 2.0 Proposed Development

- 2.1. Permission is sought to increase the height of part of the existing low level boundary wall on the south west boundary to 1.75 metres in height. Permission is also sought for 1.75 metre high screen walls within the site to provide screening for the proposed additional private open space. Access to this private open space is proposed to be provided by French doors in lieu of a kitchen window on the southwest elevation. The proposed development also includes for a minor relocation of the pedestrian access in the south west boundary.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission was granted subject to four conditions including the height of the wall, external finishes and construction practices. The following condition is particularly noted:

Condition No.2 – requires that the front boundary wall to Dangan Park and Shelton Park would be a maximum of 1.2 metres in height.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The Planning Report notes the provisions of Section 11.3.2 of the South Dublin County Development Plan regarding consolidation / infill of corner sites and the requirement for dual frontage. The report concludes that, having regard to the provisions of the Development Plan, subject to conditions, the proposal would be in accordance with the proper planning and sustainable development of the area.

A condition was included in the Planning Report and the planning authority's decision to limit the height of the wall along the south western boundary to 1.2 metres.

#### 3.2.2. Other Technical Reports

Water Services – No objection subject to a condition relating to surface water.

### 3.3. Prescribed Bodies

Irish Water – No objection.

## 4.0 Planning History

### Appeal Site:

**P.A. Ref. No. SD21A/0002:** Permission refused for one single storey dwelling (90sq.m) on lands to northeast of existing dwelling together with modifications to existing vehicular entrance to provide vehicular parking for proposed dwelling, associated screen walls between existing and proposed dwelling, proposed vehicular entrance gates and associated site works. The proposed development was refused for four reasons including residential amenity, design / layout and infill on a corner site, lack of proposals for surface water disposal and traffic safety. The following reason is most relevant:

Reason No.2 - Having regard to the 'RES' land-use zoning objective and the policy on corner site infill development, particularly in relation to dual frontage, the proposed development by reason of the introduction of a high boundary wall to the front of the existing dwelling would not comply with the Corner site/side garden policies set out in Section 11.3.2 of the South Dublin County Development Plan 2016

- 2022, would seriously injure the visual amenity of the area and the proper planning and sustainable development of the area.

**P.A. Ref. No. SD06A/0941:** Permission refused for the demolition of existing extension and the construction of a single storey, 2 bedroom dwelling to the north east of the existing house with new entrance with ramped disabled access facing south-east with the provision of 2 no. carparking spaces, all with landscaping, boundary treatment and site development works.

**P.A. Ref. No. SD06A/0809:** Permission refused for the demolition of existing dwelling and the construction of 2 no. 3 bedroom, detached dwellings with main entrances, ramped disabled access, facing south/east and the provision of 2no. carparking spaces per dwelling, all with landscaping, boundary treatment and site development works.

**PL 06S.210725 (P.A. Ref. No. SD04A/0837 refers):** Permission refused for the demolition of existing domestic garage and construction of a house with connection to public sewer, new entrance and associated works. The reason for refusal was due to the limited area of the site and the inadequate provision of private open space for the existing house.

**P.A. Ref. No. SD03A/0960:** Permission refused for a single storey detached 1 bedroom self contained granny flat within the boundaries of 59 Dangan Park.

**P.A. Ref. No. SD01A/0583:** Outline permission refused for a dormer bungalow to side of existing house.

## 5.0 Policy and Context

### 5.1. South Dublin County Council Development Plan 2016-2022

- 5.1.1. The site is in an area zoned 'RES' which has a zoning objective 'to protect and/or improve residential amenity'.
- 5.1.2. Section 2.3.5 refers to Privacy and Security. Housing Policy H15 states that 'It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.'

- 5.1.3. H17 Objective 5 states 'To ensure that new development in established areas does not impact negatively on the amenities or character of an area'.

Chapter 11 refers to Implementation and Section 11.3.1 Residential development. Section 11.3.1 (iv) specifically refers to Dwelling Standards and Table 11.20 states that the minimum private open space for three-bedroom house is 60m<sup>2</sup>.

Under the heading of Residential Consolidation, Section 11.3.2 (ii) states that corner development should provide a dual frontage in order to avoid blank facades and maximise surveillance of the public domain.

## 5.2. **Natural Heritage Designations**

The site is not located within or close to any European site. The closest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA located approx. 7.2km to the east.

## 5.3. **EIA Screening**

The proposed boundary walls and alterations to the existing residential dwelling are not classes of development for which EIAR is required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

- 6.1.1. The grounds of appeal are submitted by Janice and Michael McVeigh (the property owners). The main points made can be summarised as follows:

- Request the removal of condition no.2 which states that "the boundary walls facing onto Dangan Park and Shelton Park shall be a maximum height of 1.2m".
- That the existing rear garden/private open space to the north of the property has no direct access from the main living area of the dwelling. The proposed development seeks to provide an access (French doors) to the open space to the south of the dwelling.

- The appellants contend that the area to the south of the dwelling is a side garden and that the planning authority should not be relying on Section 11.3.2 of the South Dublin County Development Plan as it is intended for new dwellings on corner sites.
- The appellants disagree with the County Council's contention that the boundary wall should be no higher than 1.2 metres in order to 'retain the historical character of the area'.
- The appellants highlight a precedence for this type of boundary treatment at No.53 Dangan Park (a photograph of this is submitted with the appeal).
- That the proposed development will have little or no effect on the level of surveillance of the public domain.

## 6.2. Planning Authority Response

- The Planning Authority confirms its decision and reiterates that the reason for including the condition for limiting the height of the boundary wall was to maximise surveillance of the public realm on this prominent corner site.

## 7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Principle of Development, and
- Impact on the Character of the Area and Surveillance.
- Appropriate Assessment

### 7.1. Principle of Development

- 7.1.1. The first party appeal received is against Condition No.2 attached to the Notification to Grant Permission, which restricts the height of the boundary wall to a maximum of 1.2 metres along Dangan Park and Shelton Park. In practice, the effect of this condition is to require that the section of wall fronting Dangan Park, and enclosing the new area of private open space to the side of the house, would be reduced from the proposed 1.75 metres to a maximum of 1.2 metres. The length of this section of wall is c.11 metres.

7.1.2. The appeal site is located in an area zoned for residential use in the South Dublin County Development Plan 2016-2022 and residential is the established use on the appeal site and surrounding lands. The proposed alterations to the house in the form of French doors could fall under the exempted development regulations. I consider that the proposed pedestrian access, adjacent to the house to the north west, and the proposal for a boundary wall to enclose an area of open space are types of development that would be associated within an established residential area and are acceptable in terms of the visual and residential amenity of the area.

7.1.3. Having regard to the above, I consider that the principle of the proposed development is acceptable and that the appeal can be considered under Section 139 of the Act as an appeal against a condition.

## **7.2. Impact on the Character of the Area and Surveillance**

7.2.1. The basis of condition no.2 is that the introduction of a high boundary wall to the front of the existing dwelling would not comply with the Corner site/side garden policies set out in Section 11.3.2 of the South Dublin County Development Plan 2016 – 2022. The Planning Authority also state that the high boundary wall would reduce surveillance of the street and injure the visual amenity of the area.

7.2.2. The appellants contend that Section 11.3.2 is intended to only apply to new dwellings on corner sites. I consider that there is merit in this argument as it is stated in the County Development Plan that “development on corner and/or side garden sites should meet the criteria for infill development”, and ‘infill’ does infer a development proposal for a new dwelling. I am, however, satisfied that this policy is also relevant in assessing the boundary proposal. I also consider Policy H17 Objective 5 to be relevant as it seeks ‘To ensure that new development in established areas does not impact negatively on the amenities or character of an area’.

7.2.3. The existing private open space (approx. 270m<sup>2</sup>) located entirely to the north eastern side of the dwelling is well above the minimum required standards for a three bedroom dwelling. In my opinion, the existing private open space is sufficient in scale and quality for the enjoyment of the owners/occupants of the dwelling. Therefore, I consider it unnecessary to interfere with the established character of this corner site by introducing a 1.75 metre high wall.



- 7.2.4. At present, the existing low wall with associated hedging to the rear prevents surveillance of the street to the south west of the appeal site. If permission is granted for a 1.75 metre high wall at this location, the possibility of passive surveillance of the street will be removed entirely. Therefore, I also consider it undesirable to remove the possibility of surveillance of the street from this corner site.
- 7.2.5. I note the appellants' reference to precedence for high boundary walls fronting onto the street and the example given of No.53 Dangan Park. On the day of my site inspection, I also noted a similar example of a high wall at No.37A Dangan Park. However, these walls have been specifically designed within the original street layout to provide screening to the private open spaces associated with both of these dwellings. Both of these dwellings address the street and the corners, as does the existing house on No.59 Dangan Park. For these reasons, I do not consider that these examples form a strong precedent for the form of development proposed.
- 7.2.6. In conclusion, I believe the planning authority's intention to preserve the character of the area and the passive surveillance of the street is merited. I therefore consider that limiting the height of the boundary wall to 1.2 metres at this location is in accordance with Development Plan policy and the proper planning and sustainable development of this area.

### **7.3. Appropriate Assessment**

- 7.3.1. The proposed development comprises a boundary wall and minor alterations to an existing house in a fully serviced, urban location.
- 7.3.2. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, an urban and fully serviced location remote from any European site and the absence of any direct or indirect pathway between the appeal site and any European site, no appropriate assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. Based on the following reasons and considerations I recommend that the Planning Authority be directed that condition no.2 should be to ATTACHED to the grant of permission.

## 9.0 Reasons and Considerations

Having regard to the residential land use zoning for the site, and to the pattern of development in the area, it is considered that the proposed 1.75 metre high boundary wall, by reason of its height, and its location with respect to adjoining properties, would reduce surveillance of the street and detract from the established character of the area. The planning authority's Condition 2 requiring the boundary wall to be limited in height to 1.2 metres is, therefore, warranted.

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Liam Bowe  
Planning Inspector

10<sup>th</sup> January 2022